

REMARKS

Introductory Comments:

Claims 1, 3, 4, 13, 16-20 and 28-47 were examined in the Office Action under reply and stand variously rejected under the judicially created doctrine of obviousness-type double patenting as well as under 35 U.S.C. §112, second paragraph. These rejections are respectfully traversed as discussed more fully below.

Applicants note with appreciation the withdrawal of the previous obviousness-type double patenting rejection over USSN 09/187,780, as well as the withdrawal of the previous rejections under 35 U.S.C. §112, second paragraph.

Overview of the Amendments:

Claims 19, 38-41, 43 and 44 have been amended to recite the invention with greater particularity. Specifically, claims 19, 39, 41 and 44 have been amended to spell out the word for PLGA, as requested by the Examiner. Claims 38, 40 and 43 have been amended to delete the alternative recitation and new claims 48-50 have been added that correspond to the alternative expressions deleted from these claims. Support for these amendments can be found in the claims as filed, as well as throughout the specification at e.g., page 20, lines 5-6.

Amendment of the claims is made without intent to abandon any originally claimed subject matter and without intent to acquiesce in any rejection of record.

The Double Patenting Rejections:

Claims 1, 3, 4, 13, 16-20 and 28-47 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 29-48 and 85-112 of copending Application Serial No. 09/188,051. Applicants continue to traverse the rejection for reasons of record. However, applicants will consider the propriety of filing a Terminal Disclaimer when subject matter is considered allowable in this or the '051 application.

CONCLUSION


Applicants respectfully submit that the claims define a patentable invention. Accordingly, a Notice of Allowance is believed in order and an early notification to that effect would be appreciated.

Please direct all further communications in this application to:

Charlene A. Launer, Esq.
Chiron Corporation
Intellectual Property – R440
P.O. Box 8097
Emeryville, CA 94662-8097
Telephone: (510) 923-3888
Facsimile: (510) 655-3542.

Respectfully submitted,

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By: 
Roberta L. Robins
Registration No. 33,208
Attorney for Applicant

Chiron Corporation
Intellectual Property – R440
P.O. Box 8097
Emeryville, CA 94662-8097